UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

TANYA JOHNSON,

Plaintiff(s),

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DEPARTMENT OF THE AIR FORCE NELLIS AIR FORCE BASE, et al.,

Defendant(s).

Case No. 2:14-cv-00631-RFB-NJK

ORDER GRANTING MOTION TO STAY DISCOVERY

(Docket No. 20)

Pending before the Court is the United States' unopposed motion to stay discovery pending resolution of its motion to dismiss. Docket No. 20; *see also* Docket No. 15 (motion to dismiss). The Court finds this motion properly decided without oral argument. *See* Local Rule 78-2. For the reasons discussed more fully below, the motion to stay discovery is hereby **GRANTED**.

"The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending." *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). The case law in this District makes clear that requests to stay all discovery may be granted when: (1) the pending motion is potentially dispositive; (2) the potentially dispositive motion can be decided without additional discovery; and (3) the Court has taken a "preliminary peek" at the merits of the potentially dispositive motion and is convinced that the plaintiff will be unable to state a claim for relief. *See Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev. 2013).¹

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¹Conducting this preliminary peek puts the undersigned in an awkward position because the assigned district judge who will decide the motion to dismiss may have a different view of its merits. *See Tradebay*, 278 F.R.D. at 603. The undersigned's "preliminary peek" at the merits of that motion is not intended to

prejudice its outcome. See id.

The Court finds each of these elements exists here. First, the pending motion to dismiss is potentially case-dispositive as it raises the preliminary issue of the Court's subject matter jurisdiction and will completely dispose of the case if granted. Second, the motion to dismiss can be decided without discovery. Third, the Court is convinced that Plaintiff will be unable to state a claim pursuant to Fed. R. Civ. P. 12(b)(6) because this Court lacks subject matter jurisdiction under Title VII. Accordingly, the unopposed motion to stay discovery (Docket No. 20) is hereby **GRANTED**.

IT IS SO ORDERED.

DATED: January 15, 2015

NANCY J. KOPPE United States Magistrate Judge